IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNESSEE NASHVILLE DIVISION

BRANDON C. ROLLEN)
Plaintiff,)) (Circil No. 2,00, 0227
V.) Civil No. 3:08-0227
IT IAMECHODTON ET AL) Judge Trauger Magistrate Judge Criffin
LT. JAMES HORTON, ET AL) Magistrate Judge Griffin
Defendants.)

ORDER

On April 20, 2009, the magistrate judge issued a Report and Recommendation (Docket No. 83), to which no timely objections have been filed. The Report and Recommendation is therefore ACCEPTED and made the findings of fact and conclusions of law of this court. For the reasons expressed therein, the following are hereby ORDERED:

- (1) the Motion for Summary Judgment filed by defendant James Berry, Jr. (Docket No. 62) is GRANTED, and the claims against this defendant are DISMISSED with prejudice.
- (2) the Joint Motion for Summary Judgment filed by defendants Berry, Klein and Love (Docket No. 73) is GRANTED, and the plaintiff's claims against defendants Klein and Love are DISMISSED without prejudice under 42 USC §1997(e)(a).
- (3) the plaintiff's claims against defendants Ricky Bell, James Horton, Mike Crutcher, Sandy Hall, Vincent Meaker and James Bell are DISMISSED with prejudice for failure to state a claim.
- (4) the plaintiff's claims of excessive force based upon events occurring on July 15, 2008 as set out in the Amended Complaint are DISMISSED without prejudice.

Any appeal will not be certified as taken in good faith under 28 USC §1915(a)(3).

All claims having been disposed of, the Clerk shall close this file.

It is so **ORDERED.**

Enter this 11th day of May 2009.

ALETA A. TRAUGER U.S. District Judge